

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARIA FAILLACE,

Plaintiff,

- against -

BJ'S WHOLESALE CLUB, INC. and
THOR SHORE PARKWAY DEVELOPERS, LLC,

Defendants.
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Civil Action No.:

NOTICE OF REMOVAL

**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK:**

Defendants, BJ'S WHOLESALE CLUB, INC. and THOR SHORE PARKWAY DEVELOPERS, LLC, ("Defendants"), by their attorneys, GOLDBERG SEGALLA LLP, upon information and belief, respectfully petition the Court, pursuant to 28 U.S.C. 1441, as follows:

1. On or about May 29, 2020, the above-captioned civil action was commenced and is now pending in the Supreme Court of the State of New York, County of Kings. A trial has not yet been had therein. A copy of the Summons and Complaint is annexed as **Exhibit "A"**. A copy of the affidavit of service is annexed as **Exhibit "B"**.

2. On or about October 9, 2020, Defendants filed their Verified Answer to plaintiff's Complaint. A copy of Defendants' Verified Answer is annexed as **Exhibit "C"**.

3. The action seeks monetary damages for personal injuries allegedly suffered by plaintiff, Maria Faillace, on September 11, 2018, when she slipped and fell on the sidewalk outside of the BJ's Club located at 1752 Shore Parkway, Brooklyn, New York. Plaintiff's Complaint sounds in negligence. See Exhibit A at ¶ 44.

4. The action involves a controversy between citizens of different states, in that: (a) Plaintiff is a citizen of the State of New York; (b) Defendant, BJ's WHOLESALE CLUB, INC. is now and was at the time the action was commenced, a corporation incorporated in the State of Delaware with its principal place of business in the State of Massachusetts; and (c) Defendant, THOR SHORE PARKWAY DEVELOPERS, LLC, is now and was at the time the action was commenced, a limited liability company incorporated in the State of Delaware.

5. This action is one of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332. There is complete diversity between Defendants and Plaintiffs.

6. In addition, the amount in controversy exceeds \$75,000. More specifically, on December 29, 2020, the undersigned received plaintiff's Verified Bill of Particulars, e-filed and dated December 29, 2020, in which plaintiff confirmed in paragraph 12(e) that she is seeking in excess of \$1,000,000.00 in compensatory damages as a result of the subject incident. A copy of plaintiff's Verified Bill of Particulars is annexed as **Exhibit "D"**.

7. This Notice of Removal is being filed within thirty (30) days of receipt of plaintiff's written allegation that her alleged damages exceed \$75,000. See Exhibit D.

8. Written notice of the filing of this Notice of Removal will be given to plaintiff promptly after the filing of this Notice.

9. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Court of the Supreme Court of the State of New York, County of Kings, promptly after the filing of this Notice.

10. Attached to this Notice, and by reference made a part hereof, are true and correct copies of all process and pleadings filed herein.


11. By filing this Notice of Removal, Defendants do not waive any defense which may be available to it.

WHEREFORE Defendants pray that the above-captioned action now pending in the Supreme Court in the State of New York, County of Kings, be removed therefrom to this Honorable Court.

Dated: Garden City, New York
January 26, 2021

GOLDBERG SEGALLA LLP

By:



J. Daniel Velez, Esq.
Attorney for Defendants

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